

REMARKS

This is in response to the Office Action dated February 3, 2010. For at least the reasons stated below, Applicants submit that all pending claims are allowable over the prior art of record.

This is a second action on the merits, second non-final Office Action.

Claims 1-7, 13, 29, 31-33, 35, and 36 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application No. 2005/0171863 (“Hagen”). Claims 2 and 14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hagen in view of U.S. Patent Application No. 2002/0184096 (“Kawahara”). Claims 11, 12, 27, and 28 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hagen in view of U.S. Patent Application No. 2004/0103024 (“Patel”). Claims 15-20, 23, 34, 35, and 41 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hagen in view of U.S. Patent Application No. 2004/0186776 (“Llach”). Claims 25 and 40 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hagen in view of Llach and in further view of Patel. Claims 37 and 38 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hagen in view of U.S. Patent Application No. 2004/0230676 (“Spivack”). Claim 39 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Hagen in view of Llach and in further view of Spivack.

Applicants respectfully disagree that Hagan teaches or suggests all of the currently pending claim elements. Additionally, Applicants submit the Examiner fails to make a *prima facie* case in support of the present rejections.

Hagan, as understood, relates to a computerized system for managing classified ads. In the Hagan system, users enter and store ads in the system and then set various profiles relating to the usage of the ads. Users can search the database for finding different ads, wherein

the general nature of the Hagan system is for providing a computer-based system for presenting classified ads, the system being more convenient for the users. (¶0014).

Applicants initially submit that Hagan is fundamentally disparate in all aspects from the claimed invention. The presently claimed invention facilitates transactions between four entities: an offer exchange server, advertisers, advertisees, and end users. Among other shortcomings, Applicants contend that Hagan fails to identically disclose an offer exchange server and advertisees as presently claimed.

Hagan discusses a classified site that receives advertisements and displays them to end users. An analysis of the functions of the four claimed entities reveals that Hagan does not identically disclose the claimed invention.

In particular, the presently claimed invention discusses “obtaining an advertisee offer.” Hagan simply cannot disclose such a step. Assuming, *arguendo*, that the portal site of Hagan comprises the “advertisee,” it does not follow that the portal *obtains* offers from itself. The portal of Hagan simply receives input from advertisers and returns search results to end users. Thus, Hagan’s only matching functionality is matching end user search parameters to stored advertisements. The Hagan portal does not create offers, send them to itself, and match them along with end user parameters and advertisements. This is because Hagan has no motivation to generate an advertisee offer, as there are no other advertisees to compete with.

Assuming, on the other hand, that Hagan’s portal teaches or suggests an offer exchange server, as presently claimed, Hagan cannot disclose advertisees as presently claimed. While the portal of Hagan may receive advertisement offers from advertisers, the portal of Hagan does not receive any other data except for the end user search request. Specifically, the portal of Hagan is not concerned with serving advertisements to potential advertisees and thus

has no motivation for receiving advertisee offers. The system of Hagan is self-contained and thus cannot reasonably be construed as to identically disclose the presently claimed invention.

In order to expedite prosecution, Applicants hereby amend those claims not already including language to indicate the use of an offer exchange server in order to clarify the above points. Applicants note that independent claim 5 previously recited the element of an offer exchange server and thereby submit that the claim is in condition for allowance for the above reasons.

Applicants further note the failure of the present Office Action to expressly support the exact disclosure for the explicit limitations claimed herein. In supporting the present rejection, the Examiner recites claim 1 of the current application, then cites to ¶247 and Figures 19a-19d. Paragraph 247 discusses only the “auto-notify” feature and figures 19a-19d merely illustrate a sample web interface. Should the Examiner maintain the present rejection, Applicants request further clarification regarding the exact disclosure of the prior art, otherwise respectfully submit the present rejection fails to account for a prima facie case of rejection.

Applicants submit that the remaining dependent claims further distinguish the presently claimed invention over the prior art of record. For the above reasons, the Applicant submits that the present invention, as claimed, is patentable over the prior art. Accordingly, reconsideration and allowance of all pending claims is respectfully solicited. To expedite prosecution the Examiner is invited to call the Applicant's undersigned representative to discuss any issues relating to this application.

Dated: April 28, 2010

THIS CORRESPONDENCE IS BEING
SUBMITTED ELECTRONICALLY
THROUGH THE PATENT AND
TRADEMARK OFFICE EFS FILING
SYSTEM ON April 28, 2010

Respectfully Submitted,



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